

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

ERIC KELLEY)
)
)
)
V.)
)
)
)
SHERIFF DiPAOLA)

2005 FEB 14 P 3:49
04-11192-NMG

U.S. DISTRICT COURT
PLAINTIFFS MOTION
TO COMPELL THE DEFT(s)
TO PROVIDE ADEQUATE
LEGAL ASSISTANCE AND
MAIL PLEADINGS TO THE
COURTS.

Now Comes, The palintiff in the above matter and states that the Legal Dept. (and the defendants) are working as one and denying the plaintiff access to the courts, copies, case law and mailing provisions.

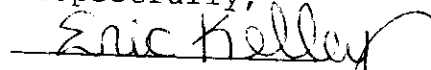
Attorney Lee Gartenburg of the Legal Dept. for the inmates, verbally told the plaintiff that neither he nor his office will provide any legal assistance or see plaintiff regarding his legal matters.

Plaintiff states that this is retaliatory and further violation of his rights. The Legal Dept.(s) assertion that a "conflict of interest exists" is not a viable deefnse. This Honorable Court dismissed the portion of the complaint verse the Billerica Legal Dept. See; Judge Gortons memorandum and conclusion of January 7th. 2005.

The plaintiff has not opposed that ruling.

In support is memorandum of law and Prayer for immediate damages (and a legal assessment.)

Respectfully;


Eric Kelley (Pro Se)

COMMONWEALTH V. DiPAOLA

04-11192-NMG

MEMORANDUM OF LAW

The Supreme Court has stated " It is beyond doubt that prisoners have a constitutional right to access to the courts" Bounds V. Smith 430 U.S. 817, 821, 97 S.Ct. 1491 (1977)

" adequate and meaningful access is mandatory" See; Akbar V. Watson 755 F.Supp. Griffin V. Coughlin 743 F.Supp. Shango V. Jurich 965 F.2d.

INJUNCTIONS FOR DENIAL are totality supported by the courts; Sands V. Lewis 886 F2d. 1166, 1171 (9th. Cir.) Ruark V. Solano 928 F2d. 947 (10th. Circuit)

The Supreme Court has held that prison officials (< MUST >) assist " inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate assistance from persons trained in the law" See: Bounds V. Smith Supra.

Inmates are entitled to access to a working system of legal system. See; Storesth v. Spellman 654 F2d. 1349 (9th. Circuit 1981)

The Supreme Court has stated " It is indisputable that indigent inmates must be provided stamps, pape, pens and notarial services See: Ruiz v. Estelle 503 F.Supp. 1265 SD TEX. 1980)

Memorandum of Law (continued)

Prison officials must provide copies;
See; See; Gluth V. Kangas 951 F2d. at 1508 The defendant
(Flynn) destroyed the copying machine and wrote " Ha Ha Ha
the copying machine don't work" and placed it there.

CONSIDERATIONS

The defendants are in contempt of
State Injunctions and (ORDERES) on file as exhibits in
this matter. the Legal Service has not interceded on behalf
of the inmates. the segregation is always double bunked,
The Legal Services has not interceded.

The Middlesex Sheriffs Dept. pays the
Legal services, the Middlesex Sheriff Dept. is the custodial
law enforcement agency. **WHERE IS THAT COFLICT OF INTEREST?**

PRAYER FOR RELIEF

See Exhibits

Plaintiff requests;

Punative damages; \$ 5000,00.00 (Five Thousand)
An Injunction and Protective ORDER.

The palintiff filed a motion for protective
order, and these defendants have frowned on this court, doing
anything they want (in violation of the plaintiffs rights).

Respectfully:

Eric Kelley

Eric Kelley (Pro Se)

NO CERTIFICATE OF SERVICE

is possible, defendants will not allow copies.

(Plaintiff to borrow stamps) Signed;

Eric Kelley

LEGAL SERVICES MEMORANDUM

**To: Eric Kelley, C-10
From: Atty. Lee Gartenberg
Re: Important Information
Date: 2/10/2005**

Based on the latest information we have regarding the civil matter, *Kelly v. DiPaola*, C.A. No. 04-11192-NMG, John Goggin and I are defendants. This creates a conflict. Unfortunately it puts us in a position where our office (John, Stephanie, Julie and I) is ethically prevented from providing services while the conflict exists.

Middlesex Sheriff's Office

Inmate Grievance Form

Name: Eric Kelley Housing: C-10

Date Grievance is Submitted: 2/10/05

Date of Specific Incident (if any): 2/10/05

Is this grievance of an emergency nature?

Circle One: YES NO

Please state grievance or complaint:

Attorney Lee Gartenburg of Inmate Legal
Services, told me that I no longer have access to the
jails Legal Service Dept. I can no longer send out my
legal mail (free) or utilize Legal Services in my pending
criminal or civil matters.

Please state requested remedy:

Assignment of an independant Attorney that does not work
for the Sheriffs Dept. (and the conflict of interest)
there-of.

Signature: _____

(Use reverse side if needed)

Inmate Receipt for Grievance Form

Inmate's Name: _____ Housing: _____

Date and Time Received: _____

Signature and Title of Employee receiving Grievance Form:
